

Internal Revenue Service, Treasury

§ 1.1561-1

such election is made within the time prescribed above but after such return is filed, by filing a statement with the internal revenue officer with whom such return was filed.

(d) *Failure to elect.* If a group fails to make an election in its first consolidated return, or any other election, in accordance with paragraph (c) of this section, the method prescribed under paragraph (a)(1) of this section shall be applicable and shall be binding upon the group in the same manner as if an election had been made to so allocate.

(e) *Definitions.* Except as otherwise provided in this section, the terms used in this section shall have the same meaning as provided in the regulations under section 1502.

(f) *Example.* The provisions of this section may be illustrated by the following example:

Example. Corporation P is the common parent owning all of the stock of corporations S1 and S2, members of an affiliated group. A consolidated return is filed for the taxable year ending December 31, 1966, by P, S1, and S2. For 1966 such corporations had the following taxable incomes or losses computed in accordance with paragraph (a)(1)(ii) of this section:

P.....	0
S1.....	\$2,000
S2.....	(1,000)

The group has not made an election under paragraph (c) of this section or paragraph (d) of § 1.1502-33. Accordingly, the method of allocation provided by paragraph (a)(1) of this section is in effect for the group. Assuming that the consolidated taxable income is equal to the sum of the members taxable income and losses, or \$1,000, the tax liability of the group for the year (assuming a 22-percent rate) is \$220, all of which is allocated to S1. S1 accordingly reduces its earnings and profits in the amount of \$220, irrespective of who actually pays the tax liability. If S1 pays the \$220 tax liability there will be no further effect upon the income, earnings and profits, or the basis of stock of any member. If, however, P pays the \$220 tax liability (and such payment is not in fact a loan from P to S1), then P shall be treated as having made a contribution to the capital of S1 in the amount of \$220. On the other hand, if S2 pays the \$220 tax liability (and such payment is not in fact a loan from S2), then S2 shall be treated as having made a distribution with respect to its stock to P in the amount of \$220, and P shall be treated as having made

a contribution to the capital of S1 in the amount of \$220.

[T.D. 6962, 33 FR 9655, July 3, 1968, as amended by T.D. 7825, 42 FR 64694, Dec. 28, 1977; T.D. 7728, 45 FR 72650, Nov. 3, 1980; T.D. 8560, 59 FR 41675, Aug. 15, 1994; T.D. 8597, 60 FR 36680, July 18, 1995; T.D. 8677, 61 FR 33325, June 27, 1996]

CERTAIN CONTROLLED CORPORATIONS

§ 1.1561-0 Effective date.

(a) *Taxable years beginning after December 31, 1974.* The provisions of §§ 1.1561-1 through 1.1561-3 apply only to taxable years beginning after December 31, 1974.

(b) *Taxable years beginning before January 1, 1975.* The provisions of §§ 1.1561-1A through 1.1561-3A apply only to taxable years beginning before January 1, 1975.

[T.D. 7528, 42 FR 64694, Dec. 28, 1977]

§ 1.1561-1 Limitations on certain multiple tax benefits in the case of certain controlled corporations.

(a) *In general.* Part II (section 1561 and following), subchapter B, chapter 6 of the Code, provides rules relating to certain controlled corporations. In general, section 1561 provides that the component members of a controlled group of corporations on a December 31, for their taxable years which include such December 31, shall be limited for purposes of subtitle A to:

(1) One surtax exemption under section 11(d),

(2) One \$150,000 amount for purposes of computing the accumulated earnings credit under section 535(c) (2) and (3), and

(3) One \$25,000 amount for purposes of computing the limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809 (d)(10).

For certain definitions (including the definition of a “controlled group of corporations” and a “component member”) and special rules for purposes of part II of subchapter B, see section 1563 and the regulations thereunder.

(b) *Tax avoidance.* The provisions of part II, subchapter B, chapter 6 do not delimit or abrogate any principle of law established by judicial decision, or any existing provisions of the code,